

### **REMARKS**

Applicant thanks the Examiner for the careful review of this application. Claims 1, 27, 40-42, 55, 65, 67, 69 and 75-77 were amended to clarify aspects of the claimed embodiments. New claims 78-81 were entered for consideration. No new matter was added. Claims 43, 56, 66 and 68 were canceled without prejudice. Therefore, claims 1-42, 44-55, 57-65, 67 and 69-81 are currently pending in this application.

### **REJECTIONS UNDER 35 U.S.C. § 101**

Claims 1-77 rejected were under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses for the following reasons.

Regarding independent claims 1, 27, 40 and 41 and their various dependents, Applicant strenuously disagrees that these claims fail to produce a useful, concrete and tangible result. The formation of a search query using graphical means is a sufficiently tangible and concrete result to satisfy the requirements of governing Federal Circuit case law. The utility for this claimset resides in generation of a search query by graphical means which is accomplished, in part, receiving telestrator data generated by a user designating a selected region on a screen of a remote device that contains a still image frame, and combining it with data of the still image frame to create a search query. The selected region will typically contain an object for which the user desires further information. The telestrator data is then used in combination with data identifying the user and data identifying the still image frame to generate the search query for transmission to a remote information system. Clearly, this is a useful, concrete and tangible result. Additionally, new dependent claims 78-81 adds to the utility of the claimed embodiments by specifying that the remote information system is operative to provide one or more results to the search query.

In a similar manner, independent claims 42, 55, 65 and 67 and their various dependents all disclose embodiments directed toward providing the necessary graphical

information that contains search parameter information that is used to generate the search query. Again, generating that graphical search parameter information is a useful, concrete tangible result as it is as the basis for the search query.

Regarding independent claims 69 and 75-77 and their various dependents, these embodiments are all directed towards receiving a graphically generated search query, performing a search utilizing the search query and providing results to a user. Applicant states for the record that the 35 U.S.C. § 101 rejections of these particular claimsets are particularly egregious. Receiving any sort of query by a data processing system, searching based on the query and providing search results to a user is well-established as statutory subject matter since it provides utility due to the useful, tangible and concrete results via delivery of the search results to the user.

Since the claimed embodiments are statutory subject matter, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 101 rejections.

#### **REJECTIONS UNDER 35 U.S.C. § 102(b)**

Claims 1-18, 21-28, 31-37, 39-52, 55-62 and 65 were rejected under 35 U.S.C. § 102(b) as being anticipated by Faris (U.S. Published Patent Application No. 2002/0069076). Applicant respectfully traverses for the following reasons.

Faris apparently discloses a system and method of securely enabling timed-constrained competitions over the Internet among millions of competitors while compensating for the variable network communication latencies experienced by client machines used by the competitors. The system employs globally time-synchronized Internet information servers and client machines in order to synchronize the initial display of each invitation to respond (e.g. stock price to buy or sell, query to answer, or problem to solve) on a client machine so each competitor can respond to the invitation at substantially the same time, regardless of his or her location on the planet, or the

type of Internet-connection used by his or her client machine. Also, by using globally time-synchronized client machines, each competitor's response is securely time and space stamped at the client machine to ensure that competitor responses are resolved within microsecond accuracy.

The cited prior art used in the section 102 rejections of the claims fails to teach each and every aspect of the claimed embodiments. Aspects of the claimed embodiments are directed towards methods, apparatuses and computer program products for graphically generating a search query for transmission to a remote information system. The search query is built, in part, via telestrator data supplied by a user designating a selected region on a screen of a device that is displaying a still image. The still image is also displayed on another device. The telestrator data contains search parameter information related to an object contained in still image frame that the user wants to obtain more information about.

In marked contrast to the claimed embodiments, Faris does not disclose the claimed embodiments alone or in combination. Specifically, and of particular importance, the Examiner is alleging that Faris discloses "receiving telestrator data designating at least a portion of the still image frame," and the location of that disclosure is at Faris' paragraphs 56 and 327, which are repeated here:

[0056] FIG. 2 is a schematic representation of a contest-based embodiment of the system of the present invention, showing the major physical components thereof comprising a primary server 100 with embedded GPS (global positioning system) receiver 170, one or more web servers 110, a login server 120, a contestant database 130, a query/answer database 140, one or more game servers 150 with embedded GPS receivers 170, and one or more client machines 160 with embedded Global Synchronization Units (GSU) 175, all components being interconnected with a network 190;

- Faris, paragraph [0056]

[0327] A Web-enabled handheld computer with an embedded GSU, and possibly wireless Internet access, could be carried by a delivery person for time and space stamping package deliveries. By attaching a digital still camera to the input of the GSU, an image of the person receiving the package could be taken and incorporated into the record of the transaction. The time and space stamp placed on the captured image would be digitally signed by the GSU to allow verification of the image at a later time. GSU equipped digital cameras, along with tamper-resistant and tamper-evident mechanical seals could be used to provide legal documentation of any number of transactions or events. Employees of insurance companies could utilize such devices to document accident damage. Similarly, bar-code scanners, document scanners, and police radar units could all be equipped with GSU's to provide enhanced security and authenticity.

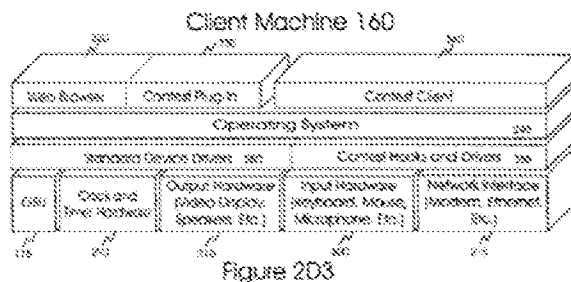
**-Faris, paragraph [0327]**

The Examiner has indicated that Faris' web-enabled handheld computer, also referred to as a "GSU," allows a user to draw a freehand sketch over a picture or an image. Applicant respectfully submits that this interpretation is incorrect. Faris discloses that a GSU can be equipped with a digital still camera and images generated by that camera can additionally be imprinted with a time/date stamp by the GSU. Restated, a user of the GSU is not enabled to designate a selected region on the still image and in fact Faris further discloses that any alteration, by the user, of the still image is not the intent of Faris' disclosure. That is clearly evident in the above-listed passage where Faris indicates that the GSU with a camera is tamper resistant and further includes tamper-evident seals in order to easily detect if an attempt was made to open the camera up. As a result, Faris teaches away from the claimed embodiments of providing telestrator data that results from a user designating a selected region on a screen that is displaying a still image.

In addition to Faris' failure to teach telestrator data, Faris is further deficient in disclosing that the still image frame is displayed on two display devices. A first device will typically be playing a broadcast when a pause command is received. After receipt of

the pause command, the still image frame is transmitted to both the first display device and a second display device. In turn, a user is able to designate a selected region on a screen of the second display device, which contains the still image frame, in order to provide telestrator data that indicates an object of interest. Support for this claim amendment pertaining to displaying the still image frame on two displays can be found in Applicant's specification at paragraph no. 63.

Turning to claim 5, claim 5 discloses that the broadcast comprises a previously recorded broadcast stored on a storage device. The Examiner has indicated that this is disclosed at Faris' paragraph 62 which describes Fig. 2D3:



[0062] FIG. 2D3 is a schematic representation of some of the major components of a client machine 160 employed in the system of the present invention, shown comprising a global synchronization unit 175 and various hardware and software layers, including client software such as a contest client application 340, contest plug-in 330, and contest hooks and drivers 350;

**-Faris, Fig. 2D3 and paragraph [0062]**

Neither Fig. 2D3 nor paragraph 62 disclose a storage device or recording a broadcast. Therefore, Faris does not disclose claim 5.

Regarding claims 8, 35, 9 and 47 the Examiner stated that Faris' paragraphs 308 and 212 disclose that telestrator data designates an object of interest in a still image frame or telestrator data comprises lines and/or curves enclosing the object of interest in the still image frame:

[0212] Since it is desired to have the client machine display the query simultaneously on all client machines (i.e. at the common start-time), the error term  $E_d$  is minimized by shifting the phase of the display update cycle. A value of 0 for  $E_d$  indicates that the display will complete drawing the given image at the precise moment of the start-time. The phase of the display update cycle is adjusted by increasing or decreasing the display update period over a number of update cycles. This period is typically determined by several registers on the display adapter, controlling the so-called "vertical total", "horizontal total", and the "dot clock". The vertical total is the total count of lines, both displayed and un-displayed (within the vertical blanking and retrace period), that make up one display update cycle. Similarly, the horizontal total measures the number of pixels, both displayed and within the horizontal blanking and retrace period. The dot clock frequency determines the number of pixels per second rendered to the display. By adjusting any one of these three values temporarily, the period of the display update cycle may be changed, again temporarily. Although it might be possible to sligh  $t_d$  with  $t_{qd}$  within a single update cycle, it is probably not desirable to make such a large modification to the display update period, since this can cause monitor flicking and may temporarily disrupt the displayed image. Instead, the display update period is modified only slightly (perhaps adjusting the vertical total by one or two lines), and the period is left adjusted until enough phase shift accumulates to reduce  $E_d$  to near zero, at which time the display update period is restored to its original value. As indicated at Block B in FIG. 4D1, the client machine adjusts the display update cycle over a number of cycles in order to minimize  $E_d$  and completely display the query at the desired start-time.

[0308] As shown in FIG. 7, the contest-promoting system of the present invention depicted in FIGS. 2 through 4G and 6 through 6C, also comprises a number of system components which are configured so that live video, taped video program content, and real-time information and results can be combined and distributed "on the fly" to spectators viewing one or more contests on standard television sets throughout the world. As shown in FIG. 7, these additional system components include: the web server 110; video-enabled client machines 900; web-to-video processor 910; real-time video compositor 920; taped video content playback unit 960; live video sources (e.g. cameras) 950; broadcasting equipment 930; and television viewers 940.

### **-Faris, paragraphs [0212] and [0308]**

Paragraph 212 discloses a possible implementation to adjust a display's refresh rate so that content displayed at that one unit is displayed concurrently at other displays located in other geographic locations. Paragraph 308 indicates that Faris' system can be used to distribute live video, taped video and other information to standard television sets. As such, neither entry gives any indication whatsoever that telestrator data indicates an object of interest, to a user, that is contained in a still image frame. As a result, Faris does not disclose claims 8, 35, 9 and 47.

Claims 10, 48 and 59 disclose that telestrator data includes one or more pixels placed directly atop the object of interest and the Examiner indicated that this claim limitation is disclosed via Faris' page 17, lines 14-25 and reproduced here as lines 13-27 to include whole preceding and subsequent sentence parts:

utilizes a basic GSU 175. When using a GSU, there is no need to characterize the local clock, and the only procedure necessary is to adjust the display refresh cycle such that a cycle completes precisely at the desired start-time.

[0211] The GSU of the present invention is used to measure the video refresh rate of the video display adapter. Almost every video display adapter used in personal computers has a set of registers used to control and monitor the scanning and refresh periods and rates. One standard function is the ability to query the adapter to determine whether it is currently in a vertical retrace period or not. By using this function over a period of time, and recording the local clock time each time the display enters vertical retrace, the period and phase of the display update cycle is determined with respect to local clock time. By reading the

**-Faris, page 17, lines 13-27**

This entry deals with a display's refresh rate. Perhaps the Examiner meant to indicate a different section? Clarification is respectfully requested as this section of Faris does not indicate anything about a pixel on a still image frame being part of an object of interest.

Turning to claims 11 and 49, these claims provide for the telestrator data to be comprised of a scribble placed atop the object of interest within the still image frame and the Examiner specified that is disclosed by Faris at paragraph no. 157:

[0157] The function of the output passthrough and signal generation (OPSG) module 780 is to provide a passthrough (e.g. input and output port) for a specific output device or class of output devices. The OPSG module 780 will have the ability to block signals from the host computer passing through the GSU 177, and to insert or overlay its own signals for presentation on the output device. For example, the OPSG module 780 could be used for the video display device. The host computer video output would be connected to the GSU 177, and another cable connected from the GSU 177 to the display device. The GSU could then "take over" the display device and display its own images or videos on the display device. Typically this capability would be activated in response to a timed event, in order to simultaneously display output on multiple GSU-equipped client machines (e.g. e.g. operating within a competition-supporting system of the present invention). OPSG modules 780 could be created to interface with a number of different output devices, including video displays, speakers, or printers.

**-Faris, paragraph [0157]**

This paragraph discloses that the OPSG module 780 can overlay its own video signals onto a display of the handheld device/GSU 177. This is not equivalent to a user designating a selected region on a screen with a scribble to indicate an object of interest contained in the still image frame.

The Examiner has indicated that claim 21 is disclosed via Faris' paragraph no. 325. Claim 21 specifies that data identifying the still image frame is a frame number.

[0325] FIG. 9 shows just a few of the potential inputs to a GSU (175 or 177) that might benefit from its time and space stamping capabilities. These inputs range from those with very specific purposes, such as water level sensors, burglar alarms, and police radar, to very general purpose inputs with a wide range of applications, such as still image and video cameras, microphones, and chemical "sniffers". Other possible inputs include: bar-code readers, document scanners, fingerprint readers, iris-scanners, vehicle counters, optical sensors for race finish lines, temperature sensors, and signature capture devices. The applications for a GSU having these inputs are virtually limitless, and the input devices shown are only a representative sample of the possible inputs.

**-Faris, paragraph [0325]**

Paragraph [0325] does indicate that an input to a handheld device/GSU can be a still image or video camera data and further indicates that each can be time and space-stamped to indicate when and where the data was produced. That time/space data is not equivalent to a frame number of a video, however. Therefore, Faris does not disclose claim 21.

For claims 25 and 39, these claims provide for data identifying the still image frame to include a program identifier and the Examiner has specified that Faris discloses this claim limitation at paragraph 129:



[0129] As shown in FIG. 2, the contest-promoting system of the illustrative embodiment employs two database systems. The first database system is the contestant database 130. The contestant database records information about the user, such as their identity, preferences, contact information, and contest results and standing. The second database is the query/answer database 140. The query/answer database stores the problems and solutions for the game contests. These problems and solutions are originally created and stored in the database by the contest operators. They are then accessed and distributed by the primary server 100 to the contestant's client machines 160 during the contest.

**-Faris, paragraph [0129]**

This paragraph describes a contestant database and a query/answer database and what each database stores. There is no mention of a still image frame or a program identifier.

In view of the foregoing, Applicant respectfully requests the withdrawal of the rejections of the claims.

**REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 19-20, 29-30, 38, 54-54 and 63-64 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Faris in view of Folk (U.S. Published Patent Application No. 2003/0142038). Claims 69-77 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Reimer (U.S. Patent No. 6,065,042) in view of Folk.

For reasons similar to those put forth in the previous section, Applicant respectfully submits that Faris in combination with Polk fails to teach all of the limitations of claims 19-20, 29-30, 38, 54-54 and 63-64 and the withdrawal of the rejections of those claims are respectfully requested.

Regarding Reimer and Folkm Applicant respectfully submits that the Examiner has failed to properly establish a *prima facie* case of obviousness with respect to the proposed combination of Reimer and Folk and reasons for these conclusions can be found after the following Applicant's interpretation of the Reimer and Folk references.

Reimer apparently discloses a system and method for providing access to information related to a movie while the movie is being presented to a user, where the movie was generated from the movie related information, are described. The system operates by presenting the movie to the user, and then receiving from the user a query pertaining to the movie. The system determines a frame of the movie that was being presented to the user when the user issued the query (the system may extract this information from the query, or may extract this information from the movie itself). The system identifies, as specified by the query, portions of the movie related information relating to the frame, and retrieves those portions of the movie related information. These retrieved portions of the movie related information are presented to the user. Also discussed is a manager to enable users to create personalized versions of movies, and personalized collections of items. Also discussed is a system and method for providing to users access to merchandise information related to a movie, and for providing connectivity to merchants, while the movie is being presented to the users.

Folk apparently discloses a method and device that allows a viewer to generate and overlay graphical data onto video images displayed on local and remote devices via a network such as the Internet. The method includes inputting at least one instruction corresponding to a graphic into an input device, storing the at least one instruction in the input device, transmitting data corresponding to the instruction from the input device to a remote server operatively connected to at least one remote display interface and selectively transmitting the instruction from the remote server to the at least one interface wherein the at least one interface overlays the graphic onto video displayed on a display device.

Applicant respectfully submits that the rejection of independent claims 69 and 75-77 based on the proposed Reimer/Folk combination is improper because the Examiner has not shown the required teaching, suggestion, or motivation in Reimer or Folk or in the knowledge that was generally available to those of ordinary skill in the art at the time of the invention to combine Reimer and Folk with each other as proposed.

The question raised under 35 U.S.C. § 103 is whether the prior art taken as a whole would suggest the claimed invention taken as a whole to one of ordinary skill in the art at the time of the invention. Accordingly, even if all elements of a claim are disclosed in various prior art references, which is certainly not the case here as discussed below, the claimed embodiments taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill at the time of the invention would have been prompted to modify the teachings of a reference or combine the teachings of multiple references to arrive at the claimed invention.

The M.P.E.P. sets forth the strict legal standard for establishing a *prima facie* case of obviousness based on modification or combination of prior art references. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references where combined) must teach or suggest all the claim limitations." M.P.E.P. § 2142, 2143. The teaching, suggestion, or motivation for the modification or combination and the reasonable expectation of success must both be found in the prior art and cannot be based on an applicant's disclosure. *See Id.* (citations omitted). "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art" at the time of the invention. M.P.E.P. § 2143.01. Even the fact that references can be modified or combined does not render the resultant modification or combination obvious unless the prior art teaches or suggests the desirability of the modification or combination. *See Id.* (citations omitted). Moreover, "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citations omitted).

The governing Federal Circuit case law makes this strict legal standard even more clear. According to the Federal Circuit, "a showing of a suggestion, teaching, or motivation to combine or modify prior art references is an essential component of an obviousness holding." *In re Sang-Su Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433 (Fed. Cir. 2002) (quoting *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 U.S.P.Q.2d 1456, 1459 (Fed. Cir. 2000)). "Evidence of a suggestion, teaching, or motivation . . . may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, the nature of the problem to be solved." *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). However, the "range of sources available . . . does not diminish the requirement for actual evidence." *Id.* Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." *In re Mills*, 916 F.2d at 682, 16 U.S.P.Q.2d at 1432. *See also In re Rouffet*, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-58 (Fed. Cir. 1998) (holding a *prima facie* case of obviousness not made where the combination of the references taught every element of the claimed invention but did not provide a motivation to combine); *In Re Jones*, 958 F.2d 347, 351, 21 U.S.P.Q.2d 1941, 1944 (Fed. Cir. 1992) ("Conspicuously missing from this record is any

evidence, other than the PTO's speculation (if that can be called evidence) that one of ordinary skill in the herbicidal art would have been motivated to make the modification of the prior art salts necessary to arrive at" the claimed invention.). Even a determination that it would have been obvious to one of ordinary skill in the art at the time of the invention to try the proposed modification or combination is not sufficient to establish a *prima facie* case of obviousness. *See In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988).

In addition, the M.P.E.P. and the Federal Circuit repeatedly warn against using an applicant's disclosure as a blueprint to reconstruct the claimed invention. For example, the M.P.E.P. states, "The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." M.P.E.P. § 2142. The governing Federal Circuit cases are equally clear. "A critical step in analyzing the patentability of claims pursuant to [35 U.S.C. § 103] is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. . . . Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one 'to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher.'" *In re Kotzab*, 217 F.3d 1365, 1369, 55 U.S.P.Q.2d 1313, 1316 (Fed. Cir. 2000) (citations omitted). In *In re Kotzab*, the court noted that to prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. *See id.* *See also, e.g., Grain Processing Corp. v. American Maize-Products*, 840 F.2d 902, 907, 5 U.S.P.Q.2d 1788, 1792 (Fed. Cir. 1988). Similarly, in *In re Dembiczak*, the Federal Circuit reversed a finding of obviousness by the Board, explaining that the required evidence of such a

teaching, suggestion, or motivation is essential to avoid impermissible hindsight reconstruction of an applicant's invention:

**Our case law makes clear that the best defense against the subtle but powerful attraction of hind-sight obviousness analysis is *rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references*. Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight.** - 175 F.3d at 999, 50 U.S.P.Q.2d at 1617 (emphasis added) (citations omitted).

Applicant respectfully submits that the rejections of independent claims 69 and 75-77 based on the proposed Bahl/LeBlanc combination is improper, under the M.P.E.P. and governing Federal Circuit cases. Specifically, in the April 5, 2006 Office Action, the combination of Reimer and Folk fails to teach all of the claim limitations and the Examiner has failed to provide any evidence that the proposed combination Reimer/Folk would have a reasonable expectation of success.

Both Reimer and Folk fail to disclose that the search query was formed, in part, from telestrator data generated by a user designating a selected region on a screen of a first display device that displays a still image frame that is also displayed on a second display device.

Regarding claim 70, claim 70 specifies that the program identifier is station identification information, channel identification information or vertical blanking interval information and the Examiner has indicated that this is disclosed via the following entry from Reimer:

The take details table 1312 has a row for each take. A take title column 1314 stores the title of the take, a take first frame time code column 1316 stores the time code of the take measured from the beginning of the current movie, a location name column 1318 stores the name of the location where the take was shot, a date shot (created) column 1320 and a time shot (created) column 1322 store a date and time when the take was shot, and a method column 1324 stores information identifying the manner in which the take was shot (i.e., steady-cam, digital morph, etc.). Information for the Take Details Table 1312 is derived by the index generator component 308 by reference to the production schedule.

**-Reimer, column 20, lines 51-62**

This particular paragraph describes a table that contains various parameters related to individual takes and there is no mention of station identification information, channel identification information or vertical blanking interval information. Additionally, the parameters of Reimer's take details table are all movie/video-related data. The embodiments of claim 70 are all transmitted video-related data. Therefore, it is not even logical for a take details table to contain such data.

Turning to claim 73, this claims provides for the telestrator data to be comprised of x, y positional parameters on the still image frame or x, y composite ratios relative to the image aspect of the still image frame. The Examiner has specified that similar information can be found via the following Reimer entry:

Each frame in the negative film 720 has an unique time code which can be tied to the start of the respective take (i.e., from the clap of the clapboard). Thus, the frames in the negative film 720 can be identified by reference to time codes.

**-Reimer, column 12, lines 5-9**

The above-listed entry merely discloses that each frame of a particular take has the same time code defined by the time at the start of the take. By doing this, a take's start and end can easily be identified in a sequence of frames during a subsequent editing process. Clearly, the above-listed entry has absolutely nothing to do x/y

positional parameters on the still image frame or x/y composite ratios relative to the image aspect of the still image frame.

Finally, the Examiner has not provided any evidence that the proposed combination of Reimer/Folk would have any reasonable expectation of success. Since two out of the three major tests (teach all the claim elements and reasonable expectation of success) for obviousness has not been met, Applicant respectfully submits that the combination of Reimer and Folk is improper. As a result, Applicant respectfully requests the withdrawal of the rejections of the claims.



### **CONCLUSION**

Applicant believes that all pending claims are allowable and a Notice of Allowance is respectfully requested. The amendment was made to expedite the prosecution of this application. Applicant respectfully traverses the rejections of the amended claims and reserves the right to re-introduce them and claims of an equivalent scope in a continuation application.

If the Examiner believes that a conference would be of value in expediting the prosecution of this application, he is cordially invited to telephone the undersigned counsel at the number set out below.

Respectfully submitted,  
LAW OFFICE OF MARK J. SPOLYAR

Dated: August 1, 2006

/Mark J. Spolyar/  
Mark J. Spolyar  
Reg. No. 42,164

Customer No. 30505  
Law Office of Mark J. Spolyar  
2200 Cesar Chavez  
Suite #8  
San Francisco, CA 94124  
Telephone: (415) 826-7966